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AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 974

Introduced by Assembly Member Nunez

February 18, 2005

An act to add Chapter 3 (commencing with Section 3260) to Part 4 of Division 1 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 974, as amended, Nunez. Electricity: electrical transmission infrastructure planning and investment.

Existing law establishes the State Energy Resources Conservation and Development Commission (Energy Commission) in the Resources Agency. Existing law requires the Energy Commission to conduct biennial assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices. The Energy Commission is required to adopt a biennial integrated energy policy by November 1 that contains an overview of major energy trends and issues facing the state. Existing law requires the Energy Commission to adopt a strategic plan for the state's electrical transmission grid using existing resources, to be included in the integrated energy policy report adopted on November 1, 2005, which identifies and recommends actions required to implement investments needed to ensure reliability, relieve

congestion, and to meet future growth in electrical load and generation, including renewable resources, energy efficiency, and other demand reduction measures.

Under existing law, the California Public Utilities Commission (CPUC) has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. The existing Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the CPUC a certificate that the present or future public convenience and necessity require or will require that construction.

The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO) as a public benefit nonprofit corporation. Existing law requires the ISO to ensure efficient use and reliable operation of the transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the American Electric Reliability Council.

This bill would enact the Electrical Transmission Infrastructure Investment Act of 2006. The bill would require that every electrical corporation that owns electrical transmission facilities plan for, and provide, sufficient electrical transmission facilities and any upgrades or expansion of those facilities as are necessary to ensure reliable transmission service to its customers. The bill would require every electrical corporation that owns electrical transmission facilities, by July 1, 2008, and each July 1 thereafter, to provide a report to the CPUC identifying any electrical transmission facility, upgrade, or enhancement that *the electrical corporation determines* is necessary to ensure reliable transmission service to its customers, in coordination with the ISO.

This bill would require the ISO to identify upgrades and expansions of the electrical transmission system as are necessary for its control area. The bill would require the ISO, beginning July 1, 2008, and each July 1 thereafter, to provide a report to the CPUC, the Energy Commission, and the Electricity Oversight Board identifying upgrades and expansions of the electrical transmission system as are necessary for its control area.

The bill would require the CPUC, in acting upon any application for a certificate of public convenience and necessity, to approve those investments in electrical transmission infrastructure that it determines are reasonable and necessary to maintain or enhance grid reliability, to maintain or enhance efficient use of the grid, or that facilitate achievement of renewable energy resource goals pursuant to a specified law, *if those investments meet all other applicable standards and requirements for approval*. The bill would require the CPUC, in acting upon any application for a certificate of public convenience and necessity, to consider the most recent report of the ISO. The bill would require the CPUC to streamline the transmission permitting and siting process by eliminating regulatory overlap and duplication *within the commission's processes*, to reduce the time needed to review and approve a certificate of public convenience and necessity for transmission facilities and systems, to expedite the review of new or expanded transmission facilities and systems located within state or federally designated transmission corridors. The bill would authorize the CPUC, if it finds that the costs were prudently incurred in accordance with a specified law, *to allow recovery in rates of any increase in transmission costs incurred by an electrical corporation or other public utility* in planning, designing, and engineering the reconfiguration, replacement, expansion, or construction, of transmission facilities to the extent that those costs are not otherwise authorized for recovery in rates approved by the Federal Energy Regulatory Commission. The bill would require the CPUC to report to the Legislature beginning in 2008, summarizing the status of every application for a certificate of public convenience and necessity filed by an electrical corporation *or other public utility* for a transmission facility, upgrade, or enhancement and to annually update its transmission report as part of its annual workplan.

The bill would require every local publicly owned electrical utility, as defined, that owns electrical transmission facilities to plan for, and provide, sufficient electrical transmission facilities and any upgrades or expansion of those facilities as are reasonably necessary to ensure reliable transmission service to its customers.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 3 (commencing with Section 3260) is added to Part 4 of Division 1 of the Public Utilities Code, to read:

CHAPTER 3. TRANSMISSION OF ELECTRICITY

3260. (a) This chapter shall be known, and may be cited, as the Electrical Transmission Infrastructure Investment Act of 2006.

(b) For purposes of this chapter, the following terms have the following meanings:

(1) “Energy Commission” means the State Energy Resources Conservation and Development Commission.

(2) “ISO” means the Independent System Operator established pursuant to Article 2 (commencing with Section 334) and operating pursuant to Article 3 (commencing with Section 345) of Part 1 of Division 1.

(3) “Local publicly owned electric utility” has the same meaning as set forth in Section 9604.

(c) The Legislature finds and declares the following:

(1) Planning for, and investing in, electrical transmission infrastructure to ensure its continued efficient use and reliable operation is essential to the health, safety, and economic well-being of California consumers and businesses.

(2) Additional investments in electrical transmission infrastructure may be necessary to ensure reliability, relieve transmission congestion, and meet future growth in load and energy resources, including renewable energy resources, energy efficiency, and other demand reduction measures.

~~(2)~~

~~(3)~~ (3) The responsibility for planning and investing in electrical transmission infrastructure has historically been carried out as part of an electrical corporation’s obligations *the obligation of an electrical corporation or local publicly owned electric utility* to provide reliable, reasonably priced, electric service.

~~(3)~~

(4) Changes that have occurred over the last decade in the structure, operation, and regulation of the electrical industry make it appropriate and necessary to clarify and affirm the

1 respective responsibilities and obligations of industry participants
2 for planning and investing in electrical transmission
3 infrastructure, to ensure that adequate investments are made in a
4 timely manner so that the state's electrical transmission grid
5 system continues to operate in an efficient and reliable manner.

6 (d) It is the policy of this state and the intent of the Legislature
7 that the commission, the Energy Commission, the ISO, and
8 electrical corporations ensure that adequate investments are made
9 in a timely manner so that the state's electrical transmission
10 system continues to operate in an efficient and reliable manner.

11 3261. (a) Every electrical corporation that owns electrical
12 transmission facilities shall plan for, and provide, sufficient
13 electrical transmission facilities and any upgrades or expansion
14 of those facilities as are necessary to ensure reliable transmission
15 service to its customers, consistent with Sections 380, 399.25,
16 and 451. This obligation of an electrical corporation includes
17 those customers that receive distribution service from the
18 electrical corporation, without regard to whether the customer
19 receives electric service through a direct transaction with an
20 electric service provider.

21 (b) Every electrical corporation that owns electrical
22 transmission facilities shall, by July 1, 2008, and each July 1
23 thereafter, provide a report to the commission identifying any
24 electrical transmission facility, upgrade, or enhancement that *the*
25 *electrical corporation determines* is reasonably necessary to
26 ensure reliable transmission service to its—customers,—in
27 ~~coordination with the Independent System Operator, customers.~~
28 *In identifying necessary transmission investments, the electrical*
29 *corporation shall coordinate with the ISO and act consistent with*
30 *Sections 380, 399.25, and 451. Each report shall include those*
31 *transmission facilities, upgrades, or enhancements identified by*
32 *the Independent System Operator pursuant to Section 3262. Each*
33 *report shall look forward at least 10 years and shall consider the*
34 ~~most recent assessment of electrical load growth forecast by the~~
35 ~~Energy Commission.~~ *Energy Commission's most recent*
36 *electricity supply and demand outlook forecast, any relevant*
37 *investments identified pursuant to Section 25324 of the Public*
38 *Resources Code, and any relevant transmission corridor zone*
39 *designated pursuant to Chapter 4.3 (commencing with Section*
40 *25330) of Division 15 of the Public Resources Code.*

1 3262. (a) Consistent with its obligations pursuant to Article 3
2 (commencing with Section 345), the ISO shall identify upgrades
3 and expansions of the electrical transmission system as are
4 necessary for its control area.

5 (b) The ISO shall, beginning July 1, 2008, and each July 1
6 thereafter, after public review and comment consistent with
7 Section 345.5, provide a report to the commission, the Energy
8 Commission, and the Electricity Oversight Board. The report
9 shall identify upgrades and expansions of the electrical
10 transmission system pursuant to subdivision (a). Each report shall
11 look forward at least 10 years and shall consider the ~~most recent~~
12 ~~assessment of electrical load growth forecast by the Energy~~
13 ~~Commission~~ *Energy Commission's most recent electricity supply*
14 *and demand outlook forecast, any relevant investments identified*
15 *pursuant to Section 25324 of the Public Resources Code, and any*
16 *relevant transmission corridor zone designated pursuant to*
17 *Chapter 4.3 (commencing with Section 25330) of Division 15 of*
18 *the Public Resources Code.*

19 3263. (a) In acting upon any application for a certificate of
20 public convenience and necessity pursuant to Chapter 5
21 (commencing with Section 1001), the commission shall approve
22 those investments in the electrical transmission infrastructure that
23 it determines are reasonable and necessary to maintain or
24 enhance grid reliability, to maintain or enhance efficient use of
25 the grid, or that facilitate achievement of renewable energy
26 resource goals pursuant to Section 399.25, *if those investments*
27 *meet all other applicable standards and requirements for*
28 *approval.*

29 (b) In acting upon any application for a certificate of public
30 convenience and necessity pursuant to Chapter 5 (commencing
31 with Section 1001), the commission shall consider the most
32 recent report of the ~~Independent System Operator ISO~~ made
33 pursuant to Section 3262.

34 (c) Consistent with all applicable environmental laws and
35 those laws and commission rules providing for public review and
36 participation, the commission shall do all of the following:

37 (1) Streamline the transmission permitting and siting process
38 by eliminating regulatory overlap and duplication *within the*
39 *commission's processes.*

1 (2) Reduce the time needed to review and approve a certificate
2 of public convenience and necessity for transmission facilities
3 and systems.

4 (3) Expedite the review of new or expanded transmission
5 facilities and systems located within state or federally designated
6 transmission corridors.

7 (d) The commission may, if it finds that the costs were
8 prudently incurred in accordance with subdivision (a) of Section
9 454, allow recovery in rates of any increase in transmission costs
10 incurred by an electrical corporation *or other public utility* in
11 planning, designing, and engineering the reconfiguration,
12 replacement, expansion, or construction, of transmission facilities
13 to the extent that those costs are not otherwise authorized for
14 recovery in rates approved by the Federal Energy Regulatory
15 Commission.

16 (e) The commission shall, beginning in 2008, report to the
17 Legislature summarizing the status of every application for a
18 certificate of public convenience and necessity filed by an
19 electrical corporation *or other public utility* for a transmission
20 facility, upgrade, or enhancement. The report shall include
21 actions the commission has taken to facilitate the permitting and
22 siting of the facilities and a schedule to ensure adequate
23 investments are made in a timely manner in electrical
24 transmission infrastructure to ensure that the state's electrical
25 transmission system continues to operate in an efficient and
26 reliable manner. The commission shall annually update its
27 transmission report as part of its annual workplan.

28 (f) Nothing in this section shall ~~delay, deter, or otherwise~~
29 ~~impede~~ *affect* the planning, designing, engineering, permitting,
30 siting, or construction of any transmission improvement for
31 which a certificate of public convenience and necessity has been
32 filed with the commission before January 1, 2007.

33 3264. (a) Every local publicly owned electric utility that
34 owns electrical transmission facilities shall plan for, and provide,
35 sufficient electrical transmission facilities and any upgrades or
36 expansion of those facilities as are reasonably necessary to
37 ensure reliable transmission service to its customers.

38 (b) Every local publicly owned electric utility that owns
39 electrical transmission facilities shall plan for, and provide,
40 sufficient electrical transmission facilities and any upgrades or

1 expansion of those facilities in a manner that recognizes the
2 intent of the Legislature, in accordance with this chapter, to
3 ensure that adequate investments are made in a timely manner so
4 that the state's electrical transmission system continues to
5 operate in an efficient and reliable manner.

6 3265. *Nothing in this chapter diminishes or expands any*
7 *existing authority of a local publicly owned electric utility,*
8 *electrical corporation, other public utility, person, or*
9 *corporation, either alone or together with any other public or*
10 *private entity, to plan for and provide electrical transmission*
11 *facilities.*